



Banking Division Team Receives Governor's Award for Excellence



Governor's Award for Excellence in Performance - September 28, 2005 - (From Left to Right) Governor Brian Schweitzer, Karen Dimmitt, Chris Romano, Patricia Doherty, Kris Leitheiser and Director Bill Slaughter of the Department of Corrections

The Division of Banking and Financial Institutions had four members of its mortgage broker licensing and examiner staff recognized on September 28, 2005 at the Governor's Award for Excellence in Performance. The award was presented in recognition of the team's work in establishing the mortgage broker and loan originator licensing program. In particular, the team was recognized for

the development of the online licensing platform for original and renewal mortgage broker and loan originator licenses. This represents the first online licensing program that the Division has administered. The success of this program has been measured in the high adoption rate of licensees using the online method rather than submitting a paper application. The team members awarded for

their performance were Consumer Finance Company Manager Kris Leitheiser, Mortgage Broker Examiner Patricia Doherty, Mortgage Broker Program Specialist Karen Dimmitt and Office Manager Chris Romano. In addition to the Division staff, four members of the Department of Administration ITSD staff, Renan Rieke, Rick Bush, Ron Armstrong and Audrey Hinman, were also recognized as part of the award-winning team.

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- *Commissioner's Comments*
- *Mortgage Broker and Loan Originator Regulation*
- *Deposit Insurance Legislation*
- *Federal Guidance on Non-Traditional Mortgage Products*
- *Guidance on Compliance with Information Security Guidelines*

COMMISSIONER'S COMMENTS



Commissioner Annie M. Goodwin

2005: A Year in Review

On behalf of the Division of Banking and Financial Institutions I would like to wish all of our state-chartered banks, credit unions and financial institutions a happy New Year.

As we embark on this new year I would like to highlight some of the Division's progress of 2005. The year began with the Regular Session of the Montana Legislature. During the session, the Division introduced five bills, which made revisions to our bank, consumer loan, deferred deposit loan, title loan and mortgage broker and loan originator regulatory statutes. Each bill was enacted and signed into law by Governor Brian Schweitzer. Additionally, the Division also closely monitored other legislation that impacted our licensees.

In April, for the first time since the Division's existence, we were awarded accreditation by the Conference of State Bank Supervisors. The rigorous accreditation process reviewed all aspects of the Division's operations, its mission, policies, procedures, funding, and statutory authority and determined the Division's effectiveness in fulfilling its responsibilities of chartering, regulating and supervising the state's banks, trust companies and bank holding companies.

The month of April was marked another significant first for the

Division when Governor Brian Schweitzer signed an executive order that designated the Division as a criminal justice agency. The designation allows the Division to have access to criminal justice information from state and local law enforcement agencies. The access to this information will broaden our abilities to investigate violations of law that Division is charged with enforcing.

One of the prevalent themes of this year has been increasing our vigilance and prevention of financial fraud. Our state-chartered banks, credit unions and financial institutions understand the need to not only train their employees to detect financial fraud, but also assist in the financial education of our Montana consumers. The Division will continue its support of such organizations as the Montana Financial Education Coalition, Montana Council on Economic Education, Montana Fraud Coalition and Big Sky Prevention of Elder Abuse.

The Division has continued its strong supervision of our banks, credit unions and financial institutions. In 2005, the Division completed 33 bank and trust company exams, 10 credit union exams and 146 exams among our other financial institutions, which include consumer loan companies, deferred deposit loan lenders, title loan lenders, sales finance companies, escrow busi-

nesses and mortgage brokers and loan originators.

The Division has also focused on the task of licensing. In 2005, the Division coordinated the approval of three new bank charters which were granted by the State Banking Board. This included the approval of Freedom Bank in Columbia Falls and provisional charters which have been granted to Eagle Bank in Polson, Montana and Beartooth Bank in Billings, Montana. The Division's licensing staff also issued over new 300 licenses for consumer loan and sales finance companies, deferred deposit and title lenders, escrow businesses and mortgage brokers and loan originators.

During this past year the Division welcomed four new bank and credit union examiners. We also expanded the staffing of examiners in the Consumer Finance Company Bureau. Presently, the Division has 18 examiners, which hold certification with the Conference of Bank Supervisors.

In 2006, we will strive to continue our commitment to assure the safety and soundness of our banks and credit unions and compliance by our non-depository institutions. Throughout the year, if you need assistance please feel free to contact me or any member of our staff.

Federal Guidance on Nontraditional Mortgage Products

The federal financial regulatory agencies have issued for comment proposed guidance on residential mortgage products that allow borrowers to defer repayment of principal and sometimes interest.

These nontraditional mortgage products include “interest-only” mortgage loans where a borrower pays no principal for the first few years of the loan and “payment option” adjustable-rate mortgages where a borrower has flexible payment options, including the potential for negative amortization. Institutions are also increasingly combining these mortgages with other practices, such as making simultaneous second-lien mortgages and allowing reduced documentation in evaluating the applicant’s creditworthiness.

While innovations in mortgage lending can benefit some con-

that these practices can present unique risks that institutions must appropriately manage. They are also concerned that these products and practices are being offered to a wider spectrum of borrowers, including subprime borrowers and others who may not otherwise qualify for more traditional mortgage loans or who may not fully understand the associated risks of nontraditional mortgages.

The proposed guidance discusses the importance of carefully managing the potential heightened risk levels created by these loans. Toward that end, management should:

Assess a borrower’s ability to repay the loan, including any balances added through negative amortization, at the fully indexed rate that would apply after

agencies recognize that this requirement differs from underwriting standards at some institutions and are specifically requesting comment on this aspect of the guidance. Recognize that certain nontraditional mortgage loans are untested in a stressed environment and warrant strong risk management standards as well as appropriate capital and loan loss reserves. Ensure that borrowers have sufficient information to clearly understand loan terms and associated risks prior to making a product or payment choice.

Comment is requested on all aspects of the guidance, particularly on the section regarding comprehensive debt service qualification standards. Comments are due sixty days after publication in the Federal Register. The guidance can be found at <http://www.occ.gov/ftp/release/2005-124a.pdf>.

Guidance on Obligations When Lending to “Co-Borrowers”

The Division has issued the following guidance on obligations when lending to co-borrowers.

The Division cautions that just because an individual is listed on an application as a potential co-borrower an applicant is not necessarily bound by law to repay. To be responsible for repayment an applicant must sign the note or loan agreement. Loan applications completed with the intent of originating several loans using the same

application (a practice common with deferred deposit and title loans) should have language or a signed document that addresses:

1. Acknowledgement of a co-borrower.
2. The time period the arrangement is effective.
3. Co-borrower’s legal obligations.
4. Responsibilities of all co-borrowers in the case of default.

Lending to individuals who rely on another’s income and do not meet income or other underwriting requirements required by Montana statute could negatively impact findings during an institution’s annual examination.

Division Recruiting Bank Examiners

The Division is recruiting bank examiners that will be located in either Helena or Billings. A bank examiner's primary responsibilities are in performing examinations to determine the financial and operating condition of our state-chartered banks. The knowledge and skills necessary for a bank examiner

include, but are not limited to basic awareness of the principles and practices of banking, business administration, accounting, and auditing and are typically acquired through a Bachelors degree in Business Administration, Banking, Finance, Accounting, or other related business field and up to five or more years

of job related work experience. The bank examiner positions require extensive overnight travel and occasional extended hours. Starting salary will range from \$27,500 to \$58,560. For further information and application materials, contact our website <http://mt.gov/statejobs/statejobs.asp>.

Training and Meetings

September

Office Manager Chris Romano attended the AARMR mortgage fraud training seminar in Philadelphia, Pennsylvania. Chris Romano also represented the Division at the CSBS mortgage broker task force meeting in Washington, D.C.

Senior Bank Examiner Paul Staudohar attended a CSBS Problem Bank School in Chicago, Illinois.

Trainee Bank Examiners Shelly Lee and Victoria Bakken attended a CSBS Certified Operations Examiner School in San Francisco, California.

The Division staff attended computer security for state employees training in Helena and Billings.

Commissioner Annie Goodwin, Deputy Commissioner Bob Fitzsimmons, Legal Counsel Mark Prichard and the six members of the State Banking Board convened to consider granting charters for de novo banks in Polson and Billings, Montana.

Consumer Finance Company Manager Kris Leitheiser gave a presentation on predatory lending for the Montana Fraud Coalition in Sidney, Montana.

October

Commissioner Annie Goodwin was invited to speak at the CSBS Bank Directors Seminar in Coeur d'Alene, Idaho.

Trainee Bank Examiner David Gillette attended a CSBS Certified Operations Examiner School in Dallas, Texas.

November

Mortgage broker program specialist Karen Dimmitt attended a formatting administrative rules training with the Professional Career Development Center in Helena.

Consumer Finance Company Manager Kris Leitheiser gave a presentation on predatory lending for the Montana Fraud Coalition in Billings, Montana.

Commissioner Goodwin was a speaker at the Montana Financial Education Coalition Conference in Helena. The conference focus was on communities facilitating economic education for our consumers.

December

Commissioner Annie Goodwin attended the CSBS Supervisors Symposium in Coronado, California.

Licensees By the Numbers

Banks: 64 (3 new charters issued 2005, but two not yet opened)

Trust Companies: 3

Credit Unions: 12

Consumer Loan: 336 (68 new licenses in 2005)

Sales Finance: 144 (16 new licenses in 2005)

Title Loan: 41 (7 new licenses in 2005)

Deferred Deposit Lender: 106 (15 new licenses in 2005)

Escrow Businesses: 8 (3 new licenses in 2005)

Mortgage Broker: 282 (29 new licenses in 2005)

Loan Originator: 252 (122 new licenses in 2005)

As of 1/5/2006

Vote Expected on Deposit Insurance Legislation

Members of the House of Representatives are expected to vote on legislative reforms to modernize the Federal deposit insurance system that would increase the security of American's retirement savings, boost the flexibility of the regulator and promote liquidity in the banking system.

Deposit insurance reform legislation was introduced on March 9, 2005 and is similar to legislation that has been approved by the House in the past two Congresses by overwhelming margins.

Provisions included in the legislation would:

- Merge the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF) into the new Deposit Insurance Fund (DIF)
- Require the FDIC and the NCUA boards, beginning in 2010, and every succeeding five years, to consider raising the standard maximum deposit insurance if warranted
- Increase the deposit insurance limit for certain retirement accounts to \$250,000 and index that limit to inflation
- Allow the FDIC board to set assessments
- Eliminate the current 1.25 percent hard target Designated Reserve Ratio (DRR) and provide the FDIC Board with the discretion to set the DRR within a range of 1.15 to

1.50 percent for any given year

- Provide dividends if the fund exceeds 1.35 percent and a one-time credit for institutions that paid into the deposit insurance funds prior to December 31, 1996.

FDIC Consumer News

The latest edition of the FDIC Consumer News is devoted to helping seniors and their families make smart decisions about their retirement funds. The new publication is titled "Fiscal Fitness for Older Americans: Stretching Your Savings and Shaping Up Your Financial Strategies."

This publication features practical tips and information on sources of funds during retirement and pitfalls to avoid, protecting against financial frauds that target the elderly, simplifying and organizing finances, what to consider before giving others access to bank accounts and safe deposit boxes and things seniors should know about FDIC insurance. This issue of the FDIC Consumer News can be downloaded from <http://www.fdic.gov/consumers/consumer/news/cnfallo5/index.html>.

Office Security

For the safety of your staff and customers, the Division strongly urges you to verify the identity of any individuals representing themselves as examiners, auditors, or other workers needing access to the protected areas of your institution.

Dated Report of Condition

Montana statute requires that Call Reports be filed with the Division no later than 30 days after the call. Call reports are due January 30, 2006 for the December 31 call date. Since the Division does not require original signatures on page 1 of the report, banks should ensure that original signatures for each Call Report are kept on file at the bank.

Branch Approvals

- Big Sky Western Bank
Belgrade, Montana

Dividend Declaration for Banks

A Dividend Declaration Notice is required for all banks each time a dividend is declared by the Board of Directors. Pursuant to Section 32-1-232, MCA, the Dividend Declaration Notice must be submitted to the Division within 10 days of declaration.

Gift Acceptance

Employees of the Division are prohibited from accepting any gift from any financial institution supervised by the Division. Please be advised that this includes meals.

Mortgage Broker and Loan Originator Regulation

Montana Mortgage Disclosure

Pursuant to Section 32-9-124, MCA mortgage brokers and loan originators must provide the “Mortgage Loan Origination Disclosure” prior to providing mortgage broker services to a borrower. In addition, mortgage brokers and loan originators must also provide other disclosures required by other state and federal laws. Failure to provide the “Mortgage Loan Origination Disclosure” is a violation of the Montana Mortgage Broker and Loan Originator Licensing Act. The disclosure is contained within the Act and can be viewed online at <http://data.opi.state.mt.us/bills/mca/32/9/32-9-124.htm>.

Continuing Education Credits

Mortgage brokers and loan originators are advised that 12 hours of continuing education credits must be completed and

submitted to the Division by the licensing renewal deadline of May 31, 2006. A list of approved education providers can be found on the Division’s mortgage webpage at <http://banking.mt.gov/mortgage.asp>.

Co-Broking Loans

The Division has determined that co-broking is only permitted between Montana licensed mortgage broker entities or mortgage broker sole proprietors or entities otherwise exempt from the licensing requirement. Exemptions are specifically granted under Section 32-9-104, MCA. For more information please visit the Division’s mortgage webpage at <http://banking.mt.gov/mortgage.asp>.

Licensee Notifications

All mortgage broker entity and sole proprietor licensees must provide written notification prior to moving any office or branch locations. Written notification must also be provided within five business days after the termination of a loan originator or individual mortgage broker. For additional information on these notification requirements please contact Karen Dimmitt at (406) 841-2920 or kdimmitt@mt.gov.

License Renewal

The Division will be sending information related to the license renewals for mortgage brokers and loan originators by April 1, 2006. License renewals must be submitted to the Division by May 31, 2006. Failure to submit renewal information or fees will result in the automatic revocation of licenses.

Compliance with Information Security Guidelines

The federal bank and thrift regulatory agencies have announced the publication of a compliance guide for the Interagency Guidelines Establishing Information Security Standards (Security Guidelines). The compliance guide summarizes the obligations of financial institutions to protect customer information and illustrates how certain provisions of the Security Guidelines apply to specific situations.

The compliance guide provides detailed explanations of the core terms used in the Security

Guidelines as well as information to help financial institutions assess risks, design and implement an information security program, properly dispose of customer and consumer information, respond to incidents of unauthorized access to customer information, and oversee service providers that have access to customer information. The compliance guide also lists resources that may be helpful in assessing risks and designing and implementing information security programs.

The compliance guide is not a substitute for the Security Guidelines. The compliance guide addresses only a financial institution’s obligations under the Security Guidelines and does not address the applicability of any other federal or state laws or regulations that may pertain to policies or practices for protecting customer records and information.

A copy of the guidance can be found at <http://www.occ.gov/ftp/bulletin/2005-44a.pdf>.

Division of Banking and Financial Institutions

Where Is It?

The Division of Banking and Financial Institutions home page is located at:

<http://banking.mt.gov>

Montana Laws - http://leg.mt.gov/css/mtcode_const/laws.asp, Click on “Montana Code Annotated, 2005.”

Administrative Rules of Montana—<http://arm.sos.mt.gov>

FDIC — www.fdic.gov

Conference of State Bank Supervisors—<http://www.csbs.org/>

Federal Reserve System Board of Governors —www.federalreserve.gov

Federal Financial Institutions Examination Council (FFIEC) — www.ffiec.gov

National Credit Union Administration — www.ncua.gov

National Association of State Credit Union Supervisors —www.nascus.org

National Association of Consumer Credit Administrators (NACCA) — www.naccaonline.org

Federal Trade Commission (FTC) — www.ftc.gov

Family Economics and Financial Education — <http://www.familyfinance.montana.edu/>

Treasury’s Office of Financial Education — <http://www.treasury.gov/offices/domestic-finance/financial-institution/fin-education/>

Jump\$tart Coalition Task Force — <http://www.jumpstart.org/bp.cfm>

Quantifying the Economic Cost of Predatory Payday Lending — <http://www.predatorylending.org/pdfs/CRLpaydaylendingstudy121803.pdf>

American Association of Residential Mortgage Regulators — <http://www.aarmr.org>

Mission Statement

The State of Montana’s Division of Banking and Financial Institutions is charged with protecting the public’s interest in the regulation of all state-chartered banks, credit unions and other financial institutions.

The Division is obligated to preserve and promote sound and constructive competition among institutions regulated through a dual federal and banking system while overseeing the security of deposits and the safe and sound conduct of the business of state-chartered banks, credit unions and financial institutions within Montana’s statewide systems.

To seek regulatory coordination, cooperation and parity among banks, credit unions and other institutions regulated, and maintain open lines of communication between banks, credit unions and state and federal regulatory agencies.

To license and examine Montana’s deferred deposit lenders, consumer loan companies, title lenders, mortgage brokers and loan originators and other institutions to ensure they are operating in compliance with the applicable Montana laws.

Financial services offered by sound state institutions foster economic growth and meet the public demand for these services in Montana communities. To accomplish this mission, the Division is committed to the development of its staff through professional development and career advancement and a proactive approach to provide service to its regulated financial institutions.

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Jon Redlin	Stockman Bank	Sidney
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